

Application No. 09/902,048
Attorney Docket No. 8163
Response dated March 15, 2005
Reply to Office Action of December 18, 2002

REMARKS

Claims 1-12 stand rejected and Claims 1-6 and 8-12 remain pending in the present application. Claims 1 and 12 have been amended to more particularly characterize Applicants' invention. Support for this amendment can be found in the specification on page 7, lines 14-16, page 8, line 10, page 8 lines 29-30, and claim 7 as previously presented. No new matter has been added.

REJECTIONS UNDER 35 USC §103

Claims 1-12 have been rejected under 35 USC §103(a) as being unpatentable over Schulz et al, USP No. 5,654,362 (hereinafter "Schulz") in view of Dreschler et al., USP No. 6,071,503 (hereinafter "Dreschler"). The Office states that it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the compositions and methods for makeup removal as taught by Schulz by removing transfer resistant makeup with the further use of a tissue in order to benefit from the removal of transfer resistant makeup as taught by Dreschler. Additionally, the Office believes that Dreschler teaches the use of dimethicone-based cosmetic remover in combination with a tissue to remove transfer-resistant makeup. Furthermore, the Office states that Schulz teaches the use of silicone elastomers in combination with dimethicone-based fluids for compositions such as color cosmetic removers. Thus, the Office believes that Schulz's teachings of silicone-based cosmetic removers with silicone elastomers would have suggested the use of such cosmetic removers for the removal of transfer-resistant makeup where the prior art of Dreschler teaches such a use for silicone-based cosmetic removers. Applicants respectfully traverse this rejection.

Schulz discloses methods of thickening silicone oils or other solvents to gel-like consistency by reacting $\equiv\text{Si-H}$ containing polysiloxane with an alpha, omega-diene. The reaction is conducted in the presence of a platinum catalyst and a low molecular weight silicone oil. Although the reference subtly discloses the use of its silicone elastomers in the cosmetic arena, it fails to remedy the removal of transfer resistant make up since it does not

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teach Applicants' specifically claimed method. Moreover, Schulz fails to teach or suggest Applicant's claim in the requisite amounts and as amended, particularly, a non-spherical crosslinked siloxane elastomer, a solvent that is suitable for topical application to skin, optionally water, and an emulsifier wherein the composition has a viscosity greater than about 20,000 cps.

Dreschler relates to cosmetic compositions for application to the lips that includes a mixture of a specific organosiloxane resin and a dimethicone gum, a volatile carrier, and a pigment wherein these ingredients are present in specific ratios. Despite Dreschler's teaching of these compositions that are transfer resistant, Applicants find no specific teaching or suggestion to use Applicants' silicone elastomer containing compositions to remove such compositions.

Distinguishing the present invention from the aforementioned references, it is clear that there would be no motivation to combine the references to arrive at the presently claimed invention. While it is understood that the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art, the references have been broken out individually to emphasize how distinct they are from Applicant's invention as now amended. Since there is nothing in either reference to teach or suggest Applicant's invention as amended, there can be no desirability to make such a combination. Therefore, in light of the amendments made and given the fact that the references alone or in combination would not motivate a skilled artisan to arrive at Applicant's presently claimed invention, Applicant respectfully requests reconsideration and withdrawal of the rejection.


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CONCLUSION

In view of the above, Applicants respectfully submit that each of the issues raised by the Examiner has been addressed. Reconsideration and allowance of each of the pending claims is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Kenya T. Pierre
Attorney for Applicants
Registration No. 50,165
(513) 626-4055

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